THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.24949 of 1997

DATED: 14.02.2007

BETWEEN:

The Depot Manager,
A.P.S.R.T.C,
Bodhan depot. .. Petitioner

And

R.J. Prakash, Ex.Conductor
and another .. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

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ORDER:

Aggrieved by the order of the Labour Court-II, Hyderabad, in I.D.No.780 of 1992 dated 27.07.1996, the Depot Manager, A.P.S.R.T.C, Bodhan Depot, is before this Court.

The first respondent was appointed as a conductor on 05.03.1984 on contract basis. While he was conducting bus No.AAZ 3883 on 06.10.1987 from Bodhan to Nizamabad, a surprise check was conducted by the checking officials, wherein certain cash and ticket irregularities were detected and a charge memo was issued. Subsequently, an enquiry was held against the first respondent for the charges leveled against him for having collected one rupee each from three passengers without issuing tickets to them before starting of the bus. Since the first respondent's explanation was not found to be satisfactory, an enquiry was conducted and on the charges leveled against him being held established, the punishment of removal from service was imposed on 04.04.1988. The appeal preferred by the first respondent was dismissed on 24.05.1989 and the review petition was also rejected on 25.04.1990. Aggrieved thereby, the first respondent invoked the jurisdiction of the Labour Court-II, Hyderabad. On the preliminary issue regarding validity of the domestic enquiry the Labour Court, in its order dated 12.01.1996, upheld the validity of the domestic enquiry. While exercising jurisdiction under Section 2-A (2) of the

Industrial Disputes Act, the Labour Court noted that three passengers had paid fare of Rs.1/- each, a total of Rs.3/- and that the first respondent, after receiving the said amount, had failed to issue tickets. The Labour Court, having held that the charge leveled against the first respondent was established, having regard to the fact that the charge established was for not issuing tickets of Rs.1/- each to three passengers, directed the petitioner herein to reinstate the first respondent with all benefits such as continuity of service and payment of 25% of the backwages.

In **Karnataka State Road Transport Corporation v. B.S.Hullikatti**[1], the Supreme Court observed that it is the responsibility of bus conductor to collect correct fares from the passengers and deposit the same in the Corporation, that conductors act in fiduciary capacity, it would be gross misconduct if knowingly they did not collect any fare or the correct amount of fare and that, in such cases, interference with the punishment of dismissal from service was a case of misplaced sympathy by the Labour Court. In **Regional Manager, Rajastan State Road Transport Corporation v. Ghanshyam Sharma**[2], the Supreme Court held that the proved acts amounted either to a case of dishonesty or of gross negligence and bus conductors, who by their actions or inactions cause financial loss to the Corporation, are not fit to be retained in service. In **V.Ramana v. A.P.S.R.T.C.**[3], the Supreme Court held that Courts/Tribunals should not interfere unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/Tribunal. In view of the law laid down in the aforesaid judgments of the Supreme Court, there was no justification for the Labour Court in

directing payment of 25% backwages to the first respondent.

Sri V.T.M. Prasad, learned counsel for A.P.S.R.T.C, would fairly submit that the first respondent was reinstated into service in April, 1997 and subsequent thereto, his services were found to be satisfactory.

While interference with the award of the Labour Court, even with regards reinstatement, may well be justified, considering the fact that the first respondent was permitted to join duty in April, 1997 and has been rendering service for nearly a decade, I see no reason to exercise discretion under Article 226 of the Constitution of India to interfere with the award of the Labour Court in so far as it had directed reinstatement of the first respondent. The award, only to the limited extent that 25% backwages was directed to be paid to the first respondent, is set-aside and in all other respects, the award is confirmed.

The Writ Petition is accordingly disposed of. No costs.

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(RAMESH RANGANATHAN,J)

14.02.2007
vv

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[1] AIR 2001 SC 930
[2] 2002(1) LLJ 234
[3] AIR 2005 SC 3417